

SENATE BILL No. 209

AN ACT concerning the transportation development district act; relating to district sales tax; amending K.S.A. 2004 Supp. 12-17,141, 12-17,142, 12-17,144 and 12-17,145 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2004 Supp. 12-17,141 is hereby amended to read as follows: 12-17,141. As used in K.S.A. 2004 Supp. 12-17,140 through 12-17,149, and amendments thereto: (a) "Acquire" means the acquisition of property or interests in property by purchase, gift, condemnation or other lawful means and may include the acquisition of existing property and projects already owned by a municipality.

(b) "Act" means the provisions of K.S.A. 2004 Supp. 12-17,140 through 12-17,149, and amendments thereto.

(c) "Bonds" means special obligation bonds or special obligation notes payable solely from the sources described in K.S.A. 2004 Supp. 12-17,147, and amendments thereto, issued by a municipality in accordance with the provisions of this act.

(d) "Consultant" means engineers, architects, planners, attorneys and other persons deemed competent to advise and assist the governing body in planning and making of projects.

(e) "Cost" means: (1) All costs necessarily incurred for the preparation of preliminary reports, the preparation of plans and specifications, the preparation and publication of notices of hearings, resolutions, ordinances and other proceedings, necessary fees and expenses of consultants, interest accrued on borrowed money during the period of construction and the amount of a reserve fund for the bonds, together with the cost of land, materials, labor and other lawful expenses incurred in planning and doing any project and may include a charge of not to exceed 5% of the total cost of a project or the cost of work done by the municipality to reimburse the municipality for the services rendered by the municipality in the administration and supervision of such project by its general officers; and (2) in the case of property and projects already owned by the municipality and previously financed by the issuance of bonds, "cost" means costs authorized by K.S.A. 10-116a and amendments thereto.

(f) "District" means a transportation development district created pursuant to this act.

(g) "Governing body" means the governing body of a city or the board of county commissioners of a county.

(h) "Municipality" means any city or county.

(i) "Newspaper" means the official newspaper of the municipality.

(j) "Owner" means the owner or owners of record, whether resident or not, of real property within the district.

(k) "Project" means any project or undertaking, whether within or without the district, to improve, construct, reconstruct, maintain, restore, replace, renew, repair, install, furnish, equip or extend any bridge, street, road, highway access road, interchange, intersection, signing, signalization, parking lot, bus stop, station, garage, terminal, hangar, shelter, rest area, dock, wharf, lake or river port, airport, railroad, light rail or other mass transit facility or any other transportation related project or infrastructure *including, but not limited to, utility relocation; sanitary and storm sewers and lift stations; drainage conduits, channels and levees; street light fixtures, connection and facilities; underground gas, water, heating and electrical services and connections located within or without the public right-of-way; sidewalks and pedestrian underpasses or overpasses; and water main and extensions.*

(l) "Transportation development district sales tax" means the tax authorized by K.S.A. 2004 Supp. 12-17,145, and amendments thereto.

Sec. 2. K.S.A. 2004 Supp. 12-17,142 is hereby amended to read as follows: 12-17,142. (a) In addition to any other power provided by law and as a complete alternative to all other methods provided by law, the governing body of any municipality may create a district as provided by this act for the purpose of financing projects. A municipality may create a district, or may modify a previously created district, upon receipt of a petition signed by the owners of all of the land area within the proposed district. The petition shall contain: (1) The general nature of the proposed project;

(2) the ~~estimated~~ *maximum* cost of the project;

(3) the proposed method of financing the project;

(4) the proposed amount and method of assessment;

(5) the proposed amount of transportation development district sales tax; and

(6) a map or boundary description of the proposed district.

(b) Names may not be withdrawn from the petitions by the signers thereof after the governing body commences consideration of the petitions or later than seven days after such filing, whichever occurs first. The petition shall contain a notice that: (1) The names of the signers may not be withdrawn after such a period of time; and (2) the signers consent to any assessments to the extent described therein without regard to benefits conferred by the project.

(c) Upon filing of the petition for a district financed only by assessments, the governing body may proceed without notice or a hearing to make findings by resolution or ordinance as to the nature, advisability and ~~estimated~~ *maximum* cost of the project, the boundaries of the district and the amount and method of assessment. Upon making such findings the governing body may authorize the project in accordance with such findings as to the advisability of the project. The resolution or ordinance shall be effective upon publication once in a newspaper.

(d) The district boundaries and the method of financing for the project shall not require that all property that is benefited by the project, whether the benefited property is within or without the district, be included in the district or be subject to an assessment or the transportation development district sales tax.

(e) Following authorization of the project, the petition shall be submitted for recording in the office of the register of deeds of the county in which the district is located.

Sec. 3. K.S.A. 2004 Supp. 12-17,144 is hereby amended to read as follows: 12-17,144. (a) Upon filing a petition in accordance with K.S.A. 2004 Supp. 12-17,142 and amendments thereto for a district financed in whole or in part by a proposed transportation development district sales tax authorized by K.S.A. 2004 Supp. 12-17,145 and amendments thereto, the municipality shall adopt a resolution stating its intention to levy such transportation development district sales tax, and give notice of the public hearing on the advisability of creating the district, *its intention to levy such transportation development district sales tax* and financing of the project. Such notice shall be published at least once each week for two consecutive weeks in the newspaper and shall be sent by certified mail to all owners. The second notice shall be published at least seven days prior to the date of hearing and the certified mailed notice shall be sent at least 10 days prior to the date of hearing. Such notice shall contain the following information:

(1) The time and place of the hearing;

(2) the general nature of the proposed project;

(3) the ~~estimated~~ *maximum* cost of the project;

(4) the proposed method of financing of the project;

(5) the proposed amount of the transportation development district sales tax;

(6) the proposed amount and method of assessment, if any; and

(7) a map or boundary description of the proposed district.

(b) The hearing on the advisability of the creating of the district, *the intention to levy the transportation development district sales tax* and the financing of the project may be adjourned from time to time. Following the hearing or any continuation thereof, the governing body may create the district, authorize the project ~~and~~ approve the ~~estimated~~ *maximum* cost of the project; *and* the boundaries of the district, *levy the transportation development district sales tax* and *approve* the method of financing by adoption of the appropriate ordinance or resolution. Such ordinance or resolution shall become effective upon publication once in the newspaper, ~~unless, within 30 days after the commencement of the hearing, a petition requesting an election upon such question and signed by at least 5% of the owners is submitted to the clerk of the municipality. An election of the owners shall then be called and held thereon, in accordance with subsection (b) of K.S.A. 2004 Supp. 12-17,145 and amendments thereto.~~

Sec. 4. K.S.A. 2004 Supp. 12-17,145 is hereby amended to read as follows: 12-17,145. (a) In addition to and notwithstanding any limitations on the aggregate amount of the retailers' sales tax contained in K.S.A. 12-187 through 12-197, and amendments thereto, any municipality may im-

pose a transportation development district sales tax on the selling of tangible personal property at retail or rendering or furnishing services taxable pursuant to the provisions of the Kansas retailers' sales tax act, and amendments thereto, within a transportation development district for purposes of financing a project in such district in any increment of .10% or .25% not to exceed 1% and pledging the revenue received therefrom to pay the bonds issued for the project. Any transportation development district sales tax imposed pursuant to this section shall expire no later than the date the bonds issued to finance such project or refunding bonds issued therefore shall mature. *Except as otherwise provided by the provisions of K.S.A. 12-17,141 et seq., and amendments thereto, the tax authorized by this section shall be administered, collected and subject to the provisions of K.S.A. 12-187 to 12-197, inclusive, and amendments thereto.*

~~(b) Any municipality proposing to impose a transportation development district sales tax authorized by this section shall adopt a resolution stating its intention to levy such tax. Such notice shall contain the information for notices set forth in subsections (a)(2), (a)(3), (a)(4), (a)(5), (a)(6) and (a)(7) of K.S.A. 2004 Supp. 12-17,144 and amendments thereto and shall be published at least once each week for two consecutive weeks in the newspaper. If within 30 days after the last publication of the notice a petition signed by at least 5% of the owners is submitted to the clerk of the municipality requesting an election upon such question, an election of the owners shall be called and held thereon. If the information in such notice is identical to the information included in such categories in the notice provided in subsection (a) of K.S.A. 2004 Supp. 12-17,144 and amendments thereto, the notice and protest requirements set forth in this section are deemed satisfied by compliance with the notice, hearing and protest requirement of K.S.A. 2004 Supp. 12-17,144 and amendments thereto. Such election shall be called and held in the manner provided by K.S.A. 25-431 et seq., and amendments thereto. If no protest or no sufficient protest is filed or if an election is held and the proposition carries by a majority of the owners voting thereon, the governing body, by resolution or ordinance, may levy such tax. Except as provided in this act, the tax authorized by this section shall be administered, collected and subject to provisions of K.S.A. 12-187 to 12-197, inclusive, and amendments thereto.~~

(e) Upon receipt of a certified copy of the resolution or ordinance authorizing the levy of the transportation development district sales tax pursuant to this section, the state director of taxation shall cause such tax to be collected in the district at the same time and in the same manner provided for the collection of the state retailers' sales tax. All of the taxes collected under the provisions of this act shall be remitted by the secretary of revenue to the state treasurer in accordance with the provisions of K.S.A 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury. The remainder of such taxes shall be credited to the transportation development district sales tax fund, which fund is hereby established in the state treasury. All moneys in the transportation development district sales tax fund shall be remitted at least quarterly by the state treasurer, on instruction from the secretary of revenue, to the treasurers of those municipalities which are qualified to receive disbursements from such fund the amount collected within such municipality. Any refund due on any transportation development district sales tax collected pursuant to this section shall be paid out of the transportation development district sales tax refund fund which is hereby established in the state treasury and reimbursed by the director of taxation from collections of the transportation development district sales tax authorized by this section. Transportation development district sales tax received by a municipality pursuant to this section shall be deposited in the transportation development district sales tax fund created pursuant to K.S.A. 2004 Supp. 12-17,148, and amendments thereto.

Sec. 5. K.S.A. 2004 Supp. 12-17,141, 12-17,142, 12-17,144 and 12-17,145 are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the SENATE, and passed that body

SENATE concurred in
HOUSE amendments _____

President of the Senate.

Secretary of the Senate.

Passed the HOUSE
as amended _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.